

RUDOLF NOTHENBERG
P.O. BOX 567
MONTE RIO, CA. 95462
margorudy@comcast.net

April 29, 2013

Commissioners,
Bay Conservation and Development Commission

Re: Opposition to Pier 30/32 Project, Opposition to AB 1273

I am writing to you as a long time San Francisco public official, serving among other things as Chief Administrative Officer for some nine years and later as Economic Development head for Mayor Willie Brown in the early years of his first term. As CAO, I was responsible for the reconstruction of the entire Embarcadero from Fisherman's Wharf to 4th & King after the demolition of the Embarcadero Freeway. I later headed the City's negotiating team that brought this City the Giants ballpark and the Mission Bay/UCSF development.

Over the course of those years I have had extremely good relationships with the Port of San Francisco, its various Directors and, where applicable with BCDC staff. I have never, until now, felt the need to oppose a major Port initiative. The Pier 30-32 proposal is however a very bad proposal. It is bad for both procedural and substantive reasons. BCDC should be very skeptical about the process and should find it difficult to reconcile its responsibilities under the McAteer-Petris Act with the substance of what is proposed for the pier.

You will not have an action proposal on the project before you for some time yet. Since, however, you are being given a briefing by the proponents; I would, like many others, like to raise some issues with regard to the process and the substance of the Pier 30-32 project. You will have an action item regarding AB 1273 before you on May 16. AB 1273 inappropriately facilitates regulatory approval of the project. There are objections to this bill which will be addressed separately at a later time.

The process issues that bedevil this project stem entirely from the overly aggressive schedule that the Warriors have demanded of the Port/City. It is this schedule that is the cause of the pressure tactics and of the short cuts (including AB 1273) that are being employed by the proponents.

The initial schedule proposed by the City/Port was unrealistic, calling for Port and Board of Supervisors approval of a term sheet by January or February of this year. After an outcry from the public, that schedule was revised. Even that revised schedule has now slipped by several months. Yet, the Warriors still insist on the immutable date of fall 2017 for the occupancy of their proposed arena. The slippage at the front end of the schedule combined with the Warrior's unwillingness to move the end date, result in a significant compression of time remaining (after the publication of the DEIR) for the various regulatory bodies to do their jobs.

With BCDC's permitting process coming as late in the schedule as it does, and given the compression of time at the end, there will be tremendous pressure on your staff and on you to hurry your process. It is pressure that we hope that you will resist and I urge that the proponents be advised now that there will be no short cuts at BCDC.

To emphasize the schedule problem, there are as of today:

- no detailed designs,

- no programming,
- no sectionals,
- no massing studies,
- no project models.

As of today there is not enough data for the Department of City Planning to even begin the Environmental review. The long promised “Term-Sheet” has yet to become public. One must rely on the diaphanous “conceptual” drawings provided in the November 12 NOP to try to understand what the project will look like and on the developer funded “Financial Feasibility Study” for a “conceptual framework” to understand the financing.

Proponents excuse their decision for hiding the design from public view on the ground that it is being altered in response to much criticism. It is highly unlikely that any amount of tweaking of design elements will make it any easier for the BCDC Design Review Board and later BCDC as a whole to reconcile this proposed pier development with the spirit and intent of McAteer-Petris.

The claim that this development will somehow “enhance” access to the Bay waters or improve the ability of people to visually enjoy the Bay is preposterous on its face. It is not credible to assert that public access to Bay waters and Bay views will be improved via a narrow walkway around the periphery of this behemoth building – especially since the quiet enjoyment of the space will be impacted by 200 entertainment events in the arena annually.

To allege that open water views will be enhanced or protected notwithstanding the massive arena on the Pier is at best disingenuous. The proponents fail to acknowledge that for pedestrians on the Embarcadero, for bikers and for those passing through on transit, the 135 foot high building between the roadway and the water will significantly block public views of Yerba Buena Island, Treasure Island, much of the East Bay shoreline and hills and a good portion of the Bay Bridge. These public amenities are irreplaceable. A peripheral walkway, oppressed by the looming presence of a 135 foot high building overhead, is not an acceptable alternative to what exists there now or would be offered by a different project.

The project is made even more questionable when considering the fact that for slightly more than one-third of the \$120 million subsidy the Port proposes to provide to the Warriors, the deteriorating piers could be removed and the site restored to the public. For a little more than one-half of the public subsidy to the Warriors, the Pier could be fully rehabilitated and offered to the market for a project that would truly meet Public Trust and McAteer- Petris requirements and, importantly, generate badly needed rental revenues to the Port.

Finally, I believe that the financial arrangements, particularly the depth of the subsidy (\$120 million) offered by the Port to the Warriors should be a matter of BCDC concern. The Port intends to borrow this \$120 million from the Warriors (at 13% interest) and pay back about a third of that debt by way of rent credits over the next some 35 years. Thus, for a period longer than the useful life of the building, the Port will not realize a penny of rental revenue from the project. The sacrifice of that rent, along with what might be left on the table by the sale of Seawall Lot 330 for a negotiated price rather than in an open competitive bidding process, diminish – in one case for decades – potential Port revenues that could be applied to implement other Port projects – now underfunded - that are of abiding interest to BCDC.

Thank you for your attention.

Rudy Nothenberg